

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HARMONY GOLD U.S.A., INC.,

Plaintiff,

v.

HAREBRAINED SCHEMES LLC,  
HAREBRAINED HOLDINGS, INC.,  
JORDAN WEISMAN, PIRANHA GAMES  
INC., IMMEDIARES PRODUCTIONS,  
LLC, and DOES 1–10

Defendants.

CASE NO. 2:17-cv-00327-TSZ

**DECLARATION OF JESSICA  
STEBBINS BINA IN SUPPORT OF  
HARMONY GOLD U.S.A., INC.'S  
MOTION TO SEAL**

I, Jessica Stebbins Bina, declare as follows:

1. I am an attorney and partner at Latham & Watkins LLP, attorneys for plaintiff Harmony Gold U.S.A., Inc. I am over eighteen years of age, and am competent to testify herein.

I make the following statements based on my personal knowledge.

2. This declaration is submitted in support of plaintiff's Motion to Seal.

3. Before filing this motion to seal, I met and conferred with counsel for Piranha Games, Inc. ("Piranha"), Todd Fairchild and Ryan Meyer of Dorsey & Whitney LLP, pursuant to Local Civil Rule 5(g)(A). I discussed the subject of the motion to seal, and the content to be sealed, in a telephonic conference with defendant's counsel on April 6, 2018. Counsel stated that Piranha is not taking a position on the motion to seal at this time.

1           4.       I also attempted to meet and confer with counsel for defendants Harebrained  
2 Schemes LLC, Harebrained Holdings Inc., and Jordan Weisman. Counsel was unavailable to  
3 meet and confer by telephone, but informed me by email that they have not taken a position on  
4 the sealing motion.

5           5.       In 2016 and 2017, Harmony Gold and Tatsunoko engaged in mediation and an  
6 arbitration proceeding (the “Arbitration”), pursuant to which discovery was taken and documents  
7 were exchanged. In connection with a prior mediation, the parties to the Arbitration both signed  
8 a “Confidentiality and Non-Disclosure Agreement,” agreeing to keep confidential certain non-  
9 public information disclosed by either party in connection with the mediation or the subsequent  
10 Arbitration.

11           6.       During the Arbitration, the arbitrator entered a further order requiring the parties  
12 to produce certain traditionally secret documents, that the parties otherwise considered  
13 themselves unable to produce due to confidentiality restrictions in those documents, subject to  
14 appropriate confidentiality parameters (the “Discovery Order”).

15           7.       Exhibit D to the Declaration of Jessica Stebbins Bina In Support of Harmony  
16 Gold, U.S.A. Inc.’s Opposition to Defendants’ Motion for Summary Judgment (the “Bina  
17 Declaration”) includes true and accurate copies of two documents produced confidentially by  
18 Tatsunoko, as well as a certified translation of the same. Furthermore, the Opposition to  
19 Summary Judgment and the text of the Bina Declaration also include descriptions of these same  
20 confidential documents. As counsel for Harmony Gold, I believe that Harmony Gold is  
21 obligated, pursuant to the Confidentiality and Non-Disclosure Agreement, the Discovery Order,  
22 and related conversations with Tatsunoko’s counsel, to file these two documents, as well as  
23 descriptions of their contents, under seal in order to maintain their confidentiality.  
24  
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1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct.

3 Signed this 9th day of April, 2018, at Los Angeles, California.

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5 By: s/ Jessica Stebbins Bina  
6 Jessica Stebbins Bina  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 9, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants.

DATED this 9th day of April, 2018.

s/ Mary J. Klemz

Mary J. Klemz